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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,303	10/04/2006	Mario Leclerc	BRKP:012US/10602032	3382
33425 7590 11/17/2010 FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701				
EXAMINER YOUNG, SHAWQUITA				
ART UNIT		PAPER NUMBER		
1626				
NOTIFICATION DATE		DELIVERY MODE		
11/17/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

aopatent@fulbright.com

# Office Action Summary

**Application No.**

10/568,303

**Applicant(s)**

LECLERC ET AL.

**Examiner**

SHAWQUA YOUNG

**Art Unit**

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 76-78, 80-85 and 106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 76, 77, 80, 81, 83, 84 and 106 is/are rejected.
- 7) ☒ Claim(s) 78, 82 and 85 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 76-78, 80-85 and 106 are currently pending in the instant application. Applicants have cancelled claims 75, 79 and 98-105 in an amendment filed on October 26, 2010. The Examiner has withdrawn the finality of the previous Office Action because of new matter issues in the instant claims. Claims 76, 77, 80, 81, 83, 84, and 106 are rejected and claims 78, 82 and 85 are objected in this Office Action.

#### **I. *Remarks***

Applicants have overcome the rejection of claims 75-78, 80, 81, 83, 84 and 103-105 under 35 USC 112, first paragraph as failing to comply with the written description requirement and the objection of claims 79, 82 and 85 as being dependent upon a rejected based claim. The above rejection and objection have been withdrawn.

#### **II. *Rejection(s)***

##### ***Claim Rejections - 35 USC § 112, 1<sup>st</sup> paragraph***

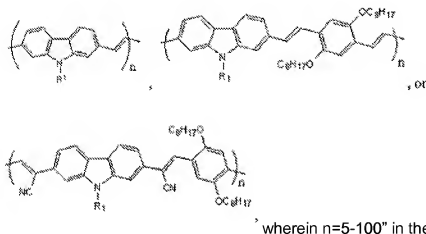
The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

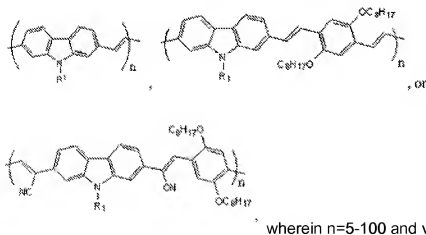
Claims 76, 77, 80, 81, 83, 84, and 106 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time

Art Unit: 1626

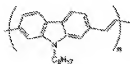
the application was filed, had possession of the claimed invention. Applicants have added new claim 106 which contains the following limitation "wherein the polymer comprises the following structure



Applicants on June 1, 2010 but this limitation is not disclosed in the original specification and is considered new matter because the amendment introduces subject matter that is not supported by the original disclosure. The original specification does not disclose polymers comprising the following structures

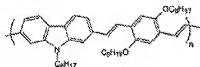


claim 106. Applicants' specification does have support for a polymer having the

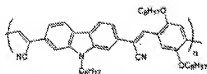


structure

(see page 7, paragraph 0028),



(see page 7, paragraph 0030) or



(see page 8, paragraph 0032) wherein n is an integer

ranging from 5 to 100. Applicants are suggested to delete the added above limitation which is considered new matter and amend the claims to read on subject matter that is supported by the originally filed disclosure.

### III. Objection

#### Dependent Claim Objections

Dependent Claims 78, 82 and 85 are objected to as being dependent upon a rejected based claim. To overcome this objection, Applicant should rewrite said claims in an independent form and include the limitations of the base claim and any intervening claim.

#### **IV. Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 7:00 AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Shawquia Young/

Examiner, Art Unit 1626